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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,569	03/29/2004	William J. Pulte	1297A-115	1378
25215 7590 05/30/2007 DOBRUSIN & THENNISCH PC 29 W LAWRENCE ST SUITE 210 PONTIAC, MI 48342			EXAMINER FIGUEROA, ADRIANA	
			ART UNIT 3637	PAPER NUMBER
			MAIL DATE 05/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/811,569	<b>Applicant(s)</b> PULTE, WILLIAM J.	
	<b>Examiner</b> Adriana Figueroa	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 25 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 25, line 2, the limitation "the rake members" is not part of the claim.

In claim 28, line 3, the limitations "rake members" and "a gable roof assembly" are not part of the claim.

Therefore, is improper to recite the cap in terms of the rake members and the gable roof assembly.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21, 23, 25, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw (US Des. 276,273) in view of Blubaugh (US 6,269,595).

Regarding claim 21, Shaw discloses a first surface (r) having a first edge (k) and a second edge (l); a second surface (s) having a first edge (m) and a second edge (n), (annotated Figure 2).

at least one stepped arcuate surface (p) intersecting said first surface (r) and said second surface (s) at said second edge (l) of said first surface and said first edge (m) of said second surface, (annotated Figure 2);

an arcuate surface (q) that intersects said first edge (k) of said first surface and is orthogonal thereto, (annotated Figures 1, 2);

Shaw does not disclose a backside demarked by a series of lines. However, Blubaugh teaches a panel (2) having a backside demarked by a series of lines, (Figures 3, 4), (Column 1, Lines 30-34, Column 2, Lines 23-25).

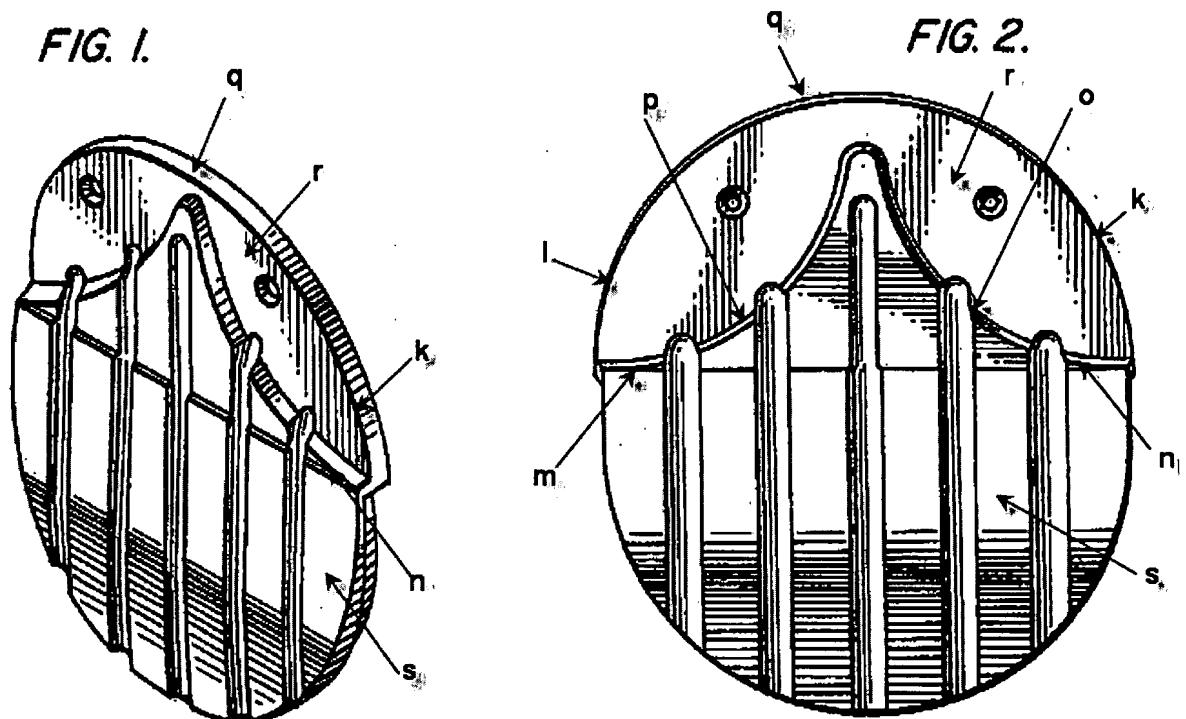
Shaw modified by Blubaugh does not disclose a series of radially extending lines and a series of tangentially extending lines, said radially extending lines and said tangential extending lines numerically marked to correspond to a roof pitch of a home to which said cap shall be attached. However, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have a series of radially extending lines and a series of tangentially extending lines, said radially extending lines and said tangential extending lines numerically marked to correspond to a roof pitch of a home to which said cap shall be attached in order to facilitate cutting of the cap to fit at its final location.

The phrase "wherein in an initial state prior to installation on said home, said cap is adapted to be cut to conform to any roof pitch; and upon installation said cap has been cut along the tangentially extending lines and the radially extending lines that correspond to the roof pitch" is considered intended use and is given no patentable weight.

Regarding claim 23, the phrase "upon installation said cap adjoins a soffit" is considered intended use and is given no patentable weight.

Regarding claim 25, Shaw discloses a stepped arcuate surface (p), (annotated Figure 2).

Regarding claim 28, Shaw discloses a cap including a plurality of stepped arcuate surfaces (o, p), (annotated Figure 2). The phrase "adapted to correspond with an equal number of stepped surfaces of adjoining rake members for defining a joint that is part of a gable roof assembly" is considered intended use and is given no patentable weight.



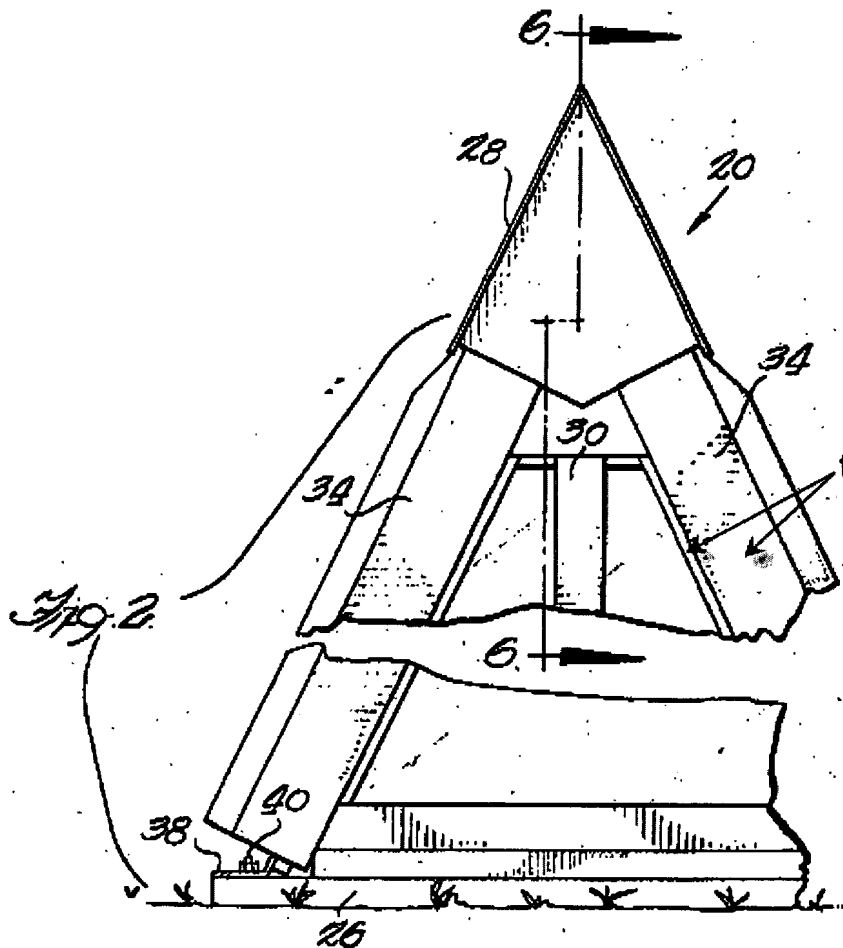
Shaw (US Des. 276,273)

3. Claims 22, 24, 26, 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw (US Des. 276,273) in view of Blubaugh (US 6,269,595) and further in view of Mason (US 3,464,167).

Regarding claim 22 and 24, Shaw modified by Blubaugh discloses as discussed above, but does not disclose the cap covering a gap defined between two adjoining rake members. However, Mason discloses a cap (28) covering a gap defined between two adjoining rake members (34), (Figures 1, 2), (Column 3, Lines 1-10). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to use the cap of Shaw and Blubaugh to cover a gap as taught by Mason in order to provide an ornamental façade for a roof.

Regarding claim 26, Shaw modified by Blubaugh and Mason discloses as discussed above; Mason also discloses said joint is part of a gable roof assembly (20), (Figures 1, 2).

Regarding claim 27, Shaw modified by Blubaugh and Mason discloses as discussed above; Mason also discloses said rake members (34) having a stepped thin-walled cross-sectional profile (t), (annotated Figure 2).



Mason (US 3,464,167)

### ***Double Patenting***

4. Claim 24 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 22. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adriana Figueroa whose telephone number is 571-272-8281. The examiner can normally be reached on Monday-Friday 8:30am - 5:00pm.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AF / AF  
05/22/2007

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